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Pretrial diversion program approved

City hopes to ease prison overcrowding

By Jason Morton Staff Writer

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TUSCALOOSA | Gov. Robert Bentley has signed legislation authorizing the city of Tuscaloosa to begin a pretrial diversion program in municipal court.

The program will enable misdemeanor offenders to have their charges dismissed and removed from their record in exchange for pleading guilty and complying with court-ordered sanctions, such as drug or alcohol treatment, that are alternatives to traditional punishment.

The intent is to intervene before defendants who commit minor offenses become ensnared in a cycle of criminal behavior and escalate to more serious crimes. Officials hope to have the program in place by July 1.

“As you look over the horizon and see the issues facing Alabama's General Fund, it is apparent that our courts and prisons will continue to be overcrowded,” said Mayor Walt Maddox. “If we do nothing, we will continue the endless of cycle of arresting and rearresting the same individuals without corrective action.”

Work on developing a program for Tuscaloosa Municipal Court began earlier this year with the formation, through an executive order from Maddox, of a pretrial diversion task force.

The task force drafted an eight-page bill authorizing the program that Rep. Chris England, D-Tuscaloosa, introduced in the 2011 session of the Legislature. It became law with Bentley's signature.

“It's another avenue for dealing with criminal cases,” said Senior Associate City Attorney Glenda Bumpus, who chaired the task force.

The new law stipulates certain criminal offenses and defendants who would be ineligible for the program. These include almost any felony, which are not adjudicated in municipal court anyway, as well as suspects considered by the Tuscaloosa Police Department or the Office of the City Attorney to be a “threat to the safety or well-being of the community.”

But those accused of lesser crimes, such as public intoxication or reckless driving, can apply to participate in the program. Once a defendant completes all conditions of the program, the charges he or she was facing typically are dismissed and removed from their permanent record.

Participation in the alternative punishment program is voluntary, but any defendant who chooses it will be required to plead guilty and waive all rights to an appeal. In addition to any court-ordered treatment, such as drug rehabilitation, the defendant will be required to perform at least 40 hours of community service, pay all fines or fees associated with the crime, including restitution and court costs, maintain a drug- and alcohol-free lifestyle and keep a full-time job or student course load. Exceptions to the job and student requirements could be made for defendants who



provide proof of disability.

Bumpus said the city intends for the pretrial diversion program to be self-sufficient. Revenue would come from fines and fees levied against participants in the program.

“We want them to pay as much as they can,” Bumpus said, noting that a monthly payment by the accused leads to a greater success rate in the program.

Eligible defendants would have to pay an application fee ranging from \$100 for a minor violation to \$1,000 for a misdemeanor DUI charge. Of this revenue, up to 25 percent will go into an indigent treatment fund for those unable to pay the application fee.

“One aspect of this legislation that is particularly appealing is that a portion of the costs will go to a fund for indigents who wish to participate,” said City Councilwoman Cynthia Almond, a member of the task force.

“The (Tuscaloosa County) district attorney’s office offers a diversion option for certain felony offenses,” said Almond, whose husband is a Tuscaloosa County circuit judge. “It only makes sense to also offer the same options for misdemeanors.”

Bumpus said the option for first-time offenders to have their charges officially dismissed by the court will be attractive to many, and Maddox believes the new program will reduce crime.

“Pretrial diversion provides a pathway for defendants to receive needed services and rehabilitation,” the mayor said. “It is our hope that by being proactive we can help individuals — in this case, mostly first-time offenders — change their lives.

“It also helps local governments because it eases the pressures in our courts and jails.”

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